

REMARKS

New claim 44 replaces claim 1, which has been canceled. It will be noted that claim 44 recites that the first holding member substantially encircles the baton *"towards the grip end of the baton so that the grip end is free"*. The Applicant submits that this is entirely consistent with the present disclosure.

The Examiner will note that the nature of the gap (6) of the first holding member (1) has been defined. Specifically, the gap (6) is defined as *"for receiving/discharging the baton (32) into/out of the first holding member (1) whilst the free grip end of the baton (32) is held"*. Basis for this amendment

can be found on page 5, lines 6-7, of the specification wherein it is stated that that *"the baton is moved out of the holding member (1) through the gap (6)"*.

Furthermore, given that the holding member is made from a material *"that exhibits a generally high friction contact with the baton"* (page 3, lines 5-6), the Applicant submits that a person skilled in the art would appreciate that the gap (6) receives the baton through it and that the baton is not ordinarily inserted along the center line of the opening (5) of the first holding members (1). Accordingly, it is submitted that the present amendments are entirely consistent

with the present disclosure that the baton moves into and out of the first holding member via the gap (6) and not the opening (5).

The Examiner will note that claim 44 further recites *"respective receiving members (3, 13)"* which *"each independently allow for attachment to the elongate support member (31) so that the holder assumes the function of a single unit"*. This *"still provides for adjustment of the distance between the holding members while, during use, consistently holding the baton in a position with the longitudinal axis of the baton, mainly parallel to said elongate support member"*.

The Applicant submits that openings (3) and (13) are *"receiving members"* in that they receive the users belt (page 3, line 6; page 4, lines 10-11).

The Examiner's attention is further directed to page 3, line 6; page 4, lines 11-13; and page 6, line 1, of the specification. Each of these sections of text discloses that the holding members (1, 10) are held stably against the user's belt. Furthermore, the Applicant also directs the Examiner to page 6, line 4 and page 6, lines 10-12, of the specification, wherein it is disclosed that there may be a minor change of the distance between the two holding members during use. This

may be during active use when being worn by a user and carrying a baton (page 6, lines 4-5) and/or active adjustment when being adjusted for wearing (page 6, lines 10-12, providing support for being able to move the holders (1, 10) such that they are "*immediately adjacent*" to one another.

Accordingly, Applicant submits that the present disclosure provides that each of the holding members is to be independently attached to the elongate support member (31) via their respective receiving members (3, 13). This should still provide for "*adjustment of the distance between the holding members*" (minor changes during active use, and significant changes during active adjustment). The holding members (1,

10) also "*consistently hold the baton in a position with the longitudinal axis of the baton mainly parallel to the elongate support member (31)*". Accordingly, the Applicant asserts that no matter has been added by virtue of these amendments.

The rejections of claims 26-28, 30-37, and 41-43 under 35 U.S.C. 102(b) and 103(a) in view of the Gregg, Parsons et al., Oakes, Austin et al., McClellan, Ratcliffe et al., Marino, Chee, and Chen references, as set forth on pages 2-6 of the Office action mailed on April 18, 2008, are obviated by the present amendment.

It is Applicant's belief that the cited references do not

disclose or suggest the claimed subject matter.

With regard to the Parsons et al. reference in particular, the Applicant has clarified that the first and second holding members (1, 10) are separate components in that they comprise *"respective receiving members (3, 13) that each independently allow for attachment to the elongate support member (31)"*. The Examiner will appreciate that the upper and lower retaining rings (10, 11) of Parsons et al. are each stapled (16) to the carrier (3), and that this carrier (3) is for attachment to the elongate support member (as presently claimed). These staples of Parsons et al. provide that the distance between the upper/lower retaining rings (i.e. the first and second holding members) cannot be adjusted.

Furthermore, the presently claimed invention provides that the first and second holding members each respectively comprise the receiving members (3, 13). The staples (16) of Parsons et al. are not part of the upper and lower retaining rings (10, 11) and therefore the upper and lower retaining rings (10, 11) cannot be said to comprise the staples, but that the baton holder *per se* comprises the staples.

Furthermore, Parsons et al. does not provide for the holding of the baton such that the longitudinal axis of the baton is substantially parallel to the elongate support member

(31). Indeed, the baton as held by the holder of Parsons et al. is perpendicular to the elongate supporting member. This feature provides that the baton does not itself have to be adjusted by the user when being carried, for example, when changing from a walking to a standing position or when removing the baton from the holder. The present invention does not compromise on the consistent holding of the baton in position, but still allows for easy and comfortable wearing of the baton, even during vigorous activity/movement.

The Applicant submits that there is no motivation for a person of ordinary skill in the art to modify the teachings of Parsons et al. to arrive at the presently claimed invention.

Applicant further submits that there is no guidance from any of the prior art for the skilled person to change the carrying orientation of the baton from the perpendicular position of Parsons et al. to the parallel position of the present claimed invention. In addition, there is no suggestion or disclosure in the prior art to allow for the adjustment of the distance between the holding members.

The Gregg, Oakes, Austin et al., McClellan, Ratcliffe et al., Marino, Chee, and Chen references were discussed in Applicant's Amendment and Request for Reconsideration filed on February 21, 2008, which discussions are incorporated by

reference herein. Applicant submits that a person skilled in the art would not combine the teachings of Parsons et al. with any other of the references cited by the Examiner.

It is clear from the above amendments and remarks that none of the prior art references cited by the Examiner disclose or suggest the claimed invention. Accordingly, withdrawal of the rejections of the claims under 35 U.S.C. 102(b) and 103(a) is respectfully requested.

The Applicant submits that the application is now in condition for allowance, and an early notice to that effect is earnestly solicited. If any issues remain that can be clarified by telephone, Examiner Mai is encouraged to contact Applicant's Representative at the number indicated below.

Respectfully submitted



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